

1 (WHEREUPON, THE DOCUMENT REFERRED
2 TO WAS MARKED AS COMCAST EXHIBIT
3 510 FOR IDENTIFICATION.)

4 BY MR. PEREZ-MARQUES:

5 Q Do you recognize this document,
6 Mr. Furman?

7 A I do recognize the document, as it
8 has my name on it.

9 Q And it is an email that you wrote
10 to Mr. Schroeder on October 29th, 2007 with
11 the subject line, [REDACTED]

12 A That is what it says, yes.

13 MR. PEREZ-MARQUES: Your Honor, I
14 move for this to be admitted into evidence.

15 MR. SCHMIDT: No objection.

16 JUDGE SIPPEL: It's received in
17 evidence then as Comcast Exhibit 510.

18 (WHEREUPON, THE DOCUMENT REFERRED
19 TO, PREVIOUSLY MARKED COMCAST
20 EXHIBIT NO. 510 FOR
21 IDENTIFICATION, WAS RECEIVED IN
22 EVIDENCE.)

1 BY MR. PEREZ-MARQUES:

2 Q Now, Mr. Furman, in this email you
3 are describing a customer service problem you
4 had with the advertiser, [REDACTED] Correct?

5 A That is correct.

6 Q In fact, if you go down several
7 bullets, you talk about clients following a
8 call complain about arrogance, rude behavior,
9 venomous tone, unprofessional action, and
10 "feel like dirt was thrown in our face". Is
11 that correct?

12 A That is what is written here, yes.

13 Q You wrote these words. Right?

14 A I did.

15 Q All right. So, now having seen
16 this, do you recall a time when a significant
17 client complained about the arrogance and rude
18 behavior of your team?

19 A From this document, I do read
20 this, and I do recall this.

21 Q And what happened in this
22 instance?

1 A This was specifically concerning
2 NFL.com. This was an outgrowth of a new
3 person relative to our team trying to
4 integrate NFL.com content into the NFL.com
5 platform for [REDACTED]

6 Q You sell NFL.com and NFL Network
7 advertising together, do you not?

8 A Our team does, yes.

9 Q Okay. And the buyers who buy them
10 for a given company are the same buyers.
11 Correct?

12 A Not necessarily.

13 Q The [REDACTED] deals that you have
14 struck have been [REDACTED] deals for NFL.com,
15 and NFL Network. Isn't that right?

16 A Yes.

17 Q Now, you would agree, wouldn't
18 you, that treating customers, your advertisers
19 in a rude or arrogant manner can lead to
20 losing their business. Isn't that right?

21 A Potentially.

22 Q Potentially?

1 A Yes.

2 Q Potentially, could lead to keeping
3 their business?

4 A These are -- these type of
5 situations, where clients are looking for
6 solutions to new and involved platforms,
7 conversations happen often. This is a daily
8 tone of business in being able to sit down
9 with an agency and do things. It's also a
10 daily tone of our business to try to integrate
11 some of our creative people into the process.
12 It goes on at every network, and everyone who
13 sells advertising. So, in that regard, it's
14 not terribly unusual to have conversations
15 where there are two points of view between the
16 advertiser and the media company. It's my
17 goal to try to make sure that those proceed as
18 commonly and calmly as possible, not always
19 successful, but in the end, work out a remedy.

20 Q Is it your testimony that it's not
21 unusual for advertisers on the NFL Network to
22 complain about the arrogance and rude behavior

1 of your staff?

2 A It is, other than this document
3 which you showed me, which is point of view
4 and hearsay.

5 Q It's hearsay? In what sense is it
6 hearsay, Mr. Furman?

7 A Well, not necessarily, when we
8 talk about this, I don't believe, and I would
9 have to review this once again, that I was
10 actually on this telephone conversation.

11 Q You were only repeating what
12 someone else had told you?

13 A Well, in the regard that I made
14 sure I tried to contact the folks that were
15 involved, both from the client's side and our
16 side. So, if I've misspoken, it's that I was
17 not, necessarily, on this particular phone
18 call.

19 Q And because it's something you
20 heard from someone else, it might not, in
21 fact, be accurate. Is that your testimony?

22 A I believe it to be accurate, and

1 as I know it was reported to me.

2 Q You believe it is accurate that

3 [REDACTED] was complaining about the arrogance

4 and rude behavior of your team.

5 A If I took the time to write an

6 email outlining this, I would have taken that

7 and considered it to be an important part of

8 what we were doing, and made sure that I

9 investigated it.

10 Q Now, a moment ago you suggested

11 that these types of conversations are not

12 unusual. Is that right?

13 A They're not unusual in the daily

14 course of business.

15 Q Now, in the bullet that I have

16 pointed you to that refers to the arrogance

17 and rude behavior of your team, it says, "All

18 of the above is standard stuff", and then

19 continues, "having clients following the call

20 complain about arrogance and rude behavior is

21 not", with three exclamation points. Correct?

22 A Actually, what it says is, "All of

1 the above is standard stuff, including having
2 passion for our product, which relates back to
3 the technician and the creative side of the
4 NFL.com personnel involved." Clearly, I then
5 point out that having our clients call to
6 complain about that, and not understand their
7 positioning, is important.

8 Q Following this call, you
9 identified customer service as a strategic
10 priority, not -

11 A I believe customer service has
12 been a priority for us since 2006.

13 Q It's important aspect of retaining
14 business, and winning new business?

15 A It's an important aspect of our
16 business.

17 Q Including retaining business, and
18 winning new business?

19 A Yes.

20 Q Now, you testified earlier that
21 there are a number of factors besides Comcast
22 distribution -- you can put that exhibit

1 aside.

2 A Thank you.

3 Q That have related to the NFL
4 Network's current advertising problems. Is
5 that right?

6 A Yes.

7 Q Okay. But you don't mention any
8 of those in your written direct testimony, do
9 you?

10 A I don't believe so.

11 Q Why not?

12 A I believe I was asked about those
13 at a prior time, and I do make mention of one,
14 if I'm not mistaken, client, [REDACTED], that
15 cited distribution as the reason that they
16 would not be renewing their contract with us.

17 Q [REDACTED] is the same company that
18 complained about the arrogance and rude
19 behavior of your team. Correct?

20 A It is the same company, yes.

21 Q All right. Now, distribution was
22 causing advertising problems for NFL Network

1 before Comcast ever repositioned the NFL

2 Network. Isn't that right?

3 A I don't know what problems

4 distribution may or may not have had with the

5 NFL Network. I was dealing with the numbers

6 that we had in distribution in any particular

7 season from 2006 on.

8 Q You're not aware of distribution

9 challenges that the NFL Network had prior to

10 2007?

11 A I am aware of the distribution

12 challenges that we had from 2006 on.

13 Q Okay. And prior to 2007, what

14 were some of those distribution challenges?

15 A As I recall, the NFL Network was

16 on a fairly positive trend line to increase

17 distribution, which would have then given us

18 the opportunity to have our programming seen

19 by a larger group of individuals, more fans,

20 and more consumers.

21 Q In fact, in 2006, the NFL Network

22 was already well behind its plan in terms of

1 number of households to be in. Right?

2 A Dealing with a plan that the NFL
3 Network had is not something that would have
4 been in the scope of my responsibilities.

5 Q It wouldn't have been relevant to
6 your work whether the NFL Network was meeting
7 its subscriber targets?

8 A We would have discussed potential
9 goals at any particular point. But, more
10 importantly, it would be how we calculate our
11 ratings estimates that the advertisers would
12 be most interested in.

13 Q In fact, you sell advertising
14 based on a projection of how many households
15 you're going to be in, don't you?

16 A We sell advertising that's based,
17 in part, by that. It's also based, in part,
18 by the popularity of the program.

19 Q The number of households is one
20 aspect of that. Correct?

21 A Yes, it is.

22 Q I'd like to show you, if I may,

1 what has already been marked and entered into
2 evidence as Comcast Exhibit 307.

3 MR. PEREZ-MARQUES: If I may
4 distribute copies, Your Honor?

5 JUDGE SIPPEL: It's already in?

6 MR. PEREZ-MARQUES: It's already
7 in.

8 JUDGE SIPPEL: This is cross
9 examination group from yesterday?

10 MR. PEREZ-MARQUES: Yes. It was a
11 Hawkins exhibit, Your Honor.

12 JUDGE SIPPEL: Well, I think we
13 can use -- we probably have that -- yes, you
14 can certainly give that to the witness, but I
15 think we've got a copy here.

16 THE WITNESS: Thank you.

17 JUDGE SIPPEL: What's the number
18 of the exhibit?

19 MR. PEREZ-MARQUES: 307, Your
20 Honor.

21 JUDGE SIPPEL: Thank you. This is
22 just an extra of Comcast 307, which has

1 already been marked and received. All right.

2 You may proceed, sir.

3 BY MR. PEREZ-MARQUES:

4 Q Mr. Furman, this is an NFL Network
5 update presentation, and I'd like to direct
6 you to page 4 of the presentation, which ends
7 in Bates number ending in 670. Are you there
8 at the slide titled, "Subscriber Outlook"?

9 A Yes.

10 Q Do you see on that slide the
11 estimate for March 2007 has Comcast at [REDACTED]
12 [REDACTED] subscribers, Time Warner at [REDACTED]
13 Charter at [REDACTED] Cox at [REDACTED],
14 Cablevision at [REDACTED] Insight at [REDACTED]
15 Mediacom at [REDACTED] and then a number for all
16 other distributors. Do you see where I'm
17 reading?

18 A I do.

19 Q And you see that Versus original
20 plan, the total cable has a [REDACTED]
21 [REDACTED] [REDACTED]. Is that correct?

22 A According to this, yes.

1 Q And, in fact, is it consistent
2 with your memory, that in 2006 the NFL Network
3 was falling short of its subscriber
4 projections?

5 A I don't have the -- I don't have a
6 recollection of what our advertiser-related
7 estimates would have been. This is a document
8 that is not something that I deal with.

9 Q Is it consistent with your
10 recollection, though, that in 2006 the NFL
11 Network was falling short of projections for
12 subscribers?

13 A I can neither say yes or not to
14 that, because I'm not aware what the
15 projections were on this level.

16 Q You're not -- you don't have a
17 recollection of whether the NFL Network was on
18 target, or below target in 2006?

19 A I do not.

20 Q Okay. Are you aware that the NFL
21 Network did not have a deal with Time Warner?

22 A I am aware of that, yes.

1 Q And are you aware that they didn't
2 have a deal to be carried on Charter?

3 A Charter, I'm not aware of.

4 Q And Cablevision?

5 A Cablevision I am aware of, yes.

6 Q And Mediacom?

7 A I wouldn't know.

8 Q But you were aware, generally,
9 that there were significant distributors who
10 were not carrying the NFL Network.

11 A Yes.

12 Q Okay. And, naturally, that was
13 an issue for your advertising revenue, was it
14 not?

15 A It was part of the fact that the
16 subscribers of those cable networks were not
17 included in our total would have been, because
18 more is better. There's no question about
19 having less of a footprint would always give
20 us more difficulty, so we were looking for the
21 largest footprint possible. And if that was
22 part of it, it was done in estimates that I

1 was not aware of.

2 Q Signing a new deal with Time

3 Warner, Charter, Cablevision, or Mediacom

4 would help your advertising revenue, wouldn't

5 it?

6 A Any additional distribution would

7 help our advertising revenue, yes.

8 Q So, it's not specific to Comcast.

9 It's any new deal would put you in a better

10 competitive position.

11 A Increases in distribution would

12 put us in a better position.

13 Q Do you know how many subscribers

14 you could gain if you signed deals with Time

15 Warner, Charter, Cablevision, and Mediacom?

16 A I don't know.

17 Q Okay. Do you know whether it

18 would put you above this 50 million subscriber

19 threshold that you've talked about?

20 A I would have to get that

21 information.

22 Q You've never considered that.

1 A I have heard numbers, but I have
2 no idea if they're valid, or not.

3 Q You never had -- withdrawn.

4 Now, in fact, in 2006, you had
5 significant advertisers that were already
6 complaining about the poor distribution of the
7 NFL Network. Correct?

8 A I would imagine that advertisers
9 constantly discuss and challenge us on
10 distribution.

11 Q In fact, you had significant
12 advertisers that wanted out of their
13 commitments, because of the weak distribution
14 in 2006. Isn't that right?

15 A I wouldn't know which significant
16 advertisers you were speaking of.

17 Q Do you recall any significant
18 advertisers who wanted out of their
19 commitments in 2006?

20 A I would have to go back and get a
21 list of our advertisers in 2006.

22 Q And, during that time, in the fall

1 of '06, Comcast had not yet repositioned the
2 NFL Network. Isn't that right?

3 A I believe that's correct, yes.

4 Q It's your testimony that before
5 Comcast ever repositioned the NFL Network, the
6 NFL Network was already suffering advertising
7 problems because of distribution. Isn't that
8 correct?

9 MR. SCHMIDT: Objection.

10 JUDGE SIPPEL: What's the nature
11 of the objection?

12 MR. SCHMIDT: I just don't think
13 he stated his testimony correctly.

14 BY MR. PEREZ-MARQUES:

15 Q Isn't it a fact that before
16 Comcast tiered the NFL Network, the NFL
17 Network was already suffering advertising
18 problems because of distribution?

19 A I don't know if there's an ability
20 to answer that with a yes, or a no answer.
21 Each advertiser has specific needs, and
22 discussions with us. I don't know if there's

1 a list of specific ones that would have said
2 it's all about distribution. Advertisers
3 challenge any network all the time to provide
4 different things. In our case, distribution
5 is one of them. Different ways of integrating
6 with programs, and how they match their
7 products is another. So, I would have to go
8 back and be able to take a look, and
9 understand if there were specific distribution
10 issues.

11 Q It's not in your experience one
12 factor in isolation that drives an
13 advertiser's decision?

14 A I believe there are some that are
15 weighted more heavily, yes.

16 Q But not one factor in isolation.

17 A I believe there are some that are
18 absolutely weighted more heavily, but there is
19 not just one factor.

20 Q And, my question was whether
21 before Comcast tiered the NFL Network, the NFL
22 Network was already suffering advertising-

1 related problems because of poor distribution.

2 I don't believe you've answered that question.

3 A There may have been.

4 Q There may have been. You don't

5 recall one way or the other.

6 A I don't recall, specifically, one

7 way or the other.

8 MR. PEREZ-MARQUES: Your Honor,

9 I'd like to mark for identification Comcast

10 Exhibit 506.

11 JUDGE SIPPEL: Is this a new one?

12 MR. PEREZ-MARQUES: It is a new

13 one.

14 JUDGE SIPPEL: Thank you. 506 is

15 -- this will be an email from Adam Shaw to Ron

16 Furman and Arturo Marques dated November 21,

17 2006. And that's identified as Comcast

18 Exhibit 506.

19 (WHEREUPON, THE DOCUMENT REFERRED

20 TO WAS MARKED AS COMCAST EXHIBIT

21 506 FOR IDENTIFICATION.)

22 MR. PEREZ-MARQUES: Your Honor, I

1 believe we are short one copy, if I could hand
2 one to the witness.

3 JUDGE SIPPEL: Well, do you have
4 an extra one? That's Exhibit Comcast 406.
5 Just hand it to the witness.

6 MR. PEREZ-MARQUES: 506.

7 JUDGE SIPPEL: 506, I'm sorry.

8 BY MR. PEREZ-MARQUES:

9 Q Mr. Furman, do you recognize this
10 document as a series of emails between
11 yourself and Adam Shaw, including Arturo
12 Marques, from November 21st and November 20th,
13 2006?

14 A Yes.

15 Q And, reading from the bottom with
16 the first email, you are writing an email to
17 Mr. Marques, within which you state, "We have
18 significant advertisers that want out of their
19 commitments based on weak distribution. Need
20 information to get them off the bandwagon."
21 Do you see that?

22 A I do.

1 Q Does that refresh your
2 recollection that before Comcast tiered, you
3 already had advertisers that wanted out of
4 their commitments based on weak distribution?

5 A What it does is, it reminds me how
6 I was reaching out to Mr. Marques to get him
7 to give us some clarity as to what the
8 difference was between these two pieces here,
9 Digital 2, and Digital 1. And commenting to
10 him in a nice way that we do, we need this
11 information, so get it to us quickly.

12 Q And the reason you needed the
13 information was because you had significant
14 advertisers that wanted out of their
15 commitments. Is that correct?

16 A I don't recall if there were any
17 advertisers connected with that comment, or
18 not.

19 Q You agree, though, that this is
20 what you were telling Mr. Marques here, do you
21 not?

22 A Yes.

1 Q And you think that you might have
2 – there's no reason to think you would have
3 been misleading Mr. Marques, is there?

4 A No, I wouldn't have, but I would
5 have thought that if there were impending
6 issues of immediacy, I would have listed the
7 advertiser.

8 JUDGE SIPPEL: Can we have an
9 identification as to who Mr. Marques is?

10 BY MR. PEREZ-MARQUES:

11 Q Mr. Furman, could you explain?
12 Who is he?

13 A At the time, Mr. Marques was
14 responsible for our affiliate relationships at
15 the NFL, so he dealt with the different cable
16 companies and other programming companies that
17 carry the NFL signal. So, he would deal with
18 Comcast and Charter, if they were on, some of
19 the different organizations. Cox, if there
20 were to be coming, DirecTV, and so on.

21 JUDGE SIPPEL: And what was his
22 title? Do you know?

1 THE WITNESS: I don't recall.

2 JUDGE SIPPEL: Was he equal with
3 you, above you, below you, or what?

4 THE WITNESS: A different
5 department, Your Honor, so I don't know how -

6 JUDGE SIPPEL: Sounds like the
7 government.

8 (Laughter.)

9 THE WITNESS: Feels that way
10 sometimes, too.

11 JUDGE SIPPEL: Be careful. I
12 don't want to get you into -- I don't want to
13 take you there.

14 THE WITNESS: Yes. That's a
15 separate conversation.

16 BY MR. PEREZ-MARQUES:

17 Q And, for completeness, can you
18 also identify who Mr. Shaw is?

19 A Mr. Shaw, at this time, I believe
20 was senior to Art Marques, and also in our
21 affiliate relations area.

22 Q They were the distribution team.

1 Correct?

2 A They dealt with our folks on the
3 distribution side. I don't know if they were
4 the only folks.

5 Q Their area of responsibility was
6 getting the NFL Network distributed. Isn't
7 that right?

8 A I believe so, yes.

9 Q And what you were telling them was
10 that you needed information about the
11 distribution, because you had significant
12 advertisers that were complaining about the
13 distribution. Isn't that right?

14 A Yes.

15 Q Now, at this time, Comcast was
16 carrying the NFL Network broadly, was it not?

17 A Yes.

18 Q It was carrying the NFL Network in
19 compliance with its contract?

20 A I wouldn't know. I'm not one to
21 have a copy of the contract.

22 Q And, at this time, you did not

1 have deals with Time Warner and Cablevision.

2 Isn't that right?

3 A Not to my knowledge.

4 Q Have you ever had deals with Time
5 Warner and Cablevision?

6 A I wouldn't be able to answer that.

7 I don't know.

8 Q Since you've been there, have
9 there ever been deals with Time Warner or
10 Cablevision?

11 A Not that I'm aware of.

12 Q And you refer here to a
13 "bandwagon". What does that refer to?

14 A It refers to a comment previously
15 that we were talking about as distribution
16 issues became public, and very evident in the
17 business, trade press, and other press, that
18 we wanted to have -- or, at least, I wanted to
19 have information as to the different segments
20 of what this agreement would have, so I could
21 best be able to understand it, and relate that
22 to the sales organization, and anyone who may